



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG-2021-0738]

Offshore Patrol Cutter Acquisition Program; Draft Programmatic

Environmental Impact Statement/Overseas Environmental Impact Statement

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of Availability of a Draft Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement; request for comments.

SUMMARY: The United States (U.S.) Coast Guard (Coast Guard), as the lead agency, announces the availability of the Draft Programmatic Environmental Impact Statement (PEIS)/Overseas Environmental Impact Statement (POEIS) for the Offshore Patrol Cutter (OPC) Program's Stage 2 acquisition of up to 21 OPCs and for the operation of up to 25 total OPCs. The complete OPC Program of Record comprises 25 OPCs. OPC Stage 1 is already under contract to provide the first 4 OPCs. OPC Stage 2 is the focus of this PEIS/POEIS and will provide the remaining 21 OPCs. This PEIS/POEIS is being prepared in compliance with the National Environmental Policy Act and the regulations implemented by the Council on Environmental Quality (CEQ) and the Executive order titled "Environmental Effects Abroad of Major Federal Actions." The Coast Guard has determined that a PEIS/POEIS is the most appropriate type of NEPA document for this action because of the scope and complexity of the proposed acquisition and operation of up to 25 OPCs. This Notice of Availability (NOA) announces the start of the public review and comment period on this PEIS/POEIS. After the Coast Guard addresses comments provided, Coast Guard will publish a final PEIS/POEIS.

DATES: Comments and related material must be post-marked or received by the Coast Guard on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Obtaining Documents: You may access the Draft PEIS/POEIS using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search using docket number USCG-2021-0738 to access the Draft PEIS/POEIS.

Submitting Comments: You may submit comments on the Draft PEIS/POEIS by one of the following methods:

- *Via the Web:* You may submit comments identified by docket number USCG-2021-0738 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Scoping Process” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.
- *Via U.S. Mail:* OPC Program Manager (CG-9322), U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave SE, Stop 7800, Washington, DC 20593. Please note that mailed comments must be postmarked on or before the comment deadline of 45 days following publication of this notice to be considered.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: For information about this document contact Andrew Haley, Chief, Office of Environmental Management, Coast Guard at

SUPPLEMENTARY INFORMATION: This NOA briefly summarizes the proposed project, including the purpose and need and reasonable alternatives. As required by NEPA and CEQ implementing regulations (40 CFR parts 1500 through 1508, specifically § 1502.3), a Federal agency must prepare an EIS if it is proposing a major Federal action to analyze the environmental consequences of implementing each of the alternatives, if carried forward for full review, following public scoping, by assessing the effects of each alternative on the human environment.

Purpose and Need for the Proposed Action

The Coast Guard's current fleet of Medium Endurance Cutters (MEC) consists of 28 operational vessels homeported in the Coast Guard's Area of Responsibility (AOR) in the Atlantic, Pacific, and Gulf of Mexico. MECs primarily operate outside the 12 nautical mile (nm) territorial seas and within the 200 nm Exclusive Economic Zone and primarily execute maritime law enforcement and search and rescue missions. Additional MEC operations occur in the Gulf of Mexico, the Caribbean Sea, and the Pacific between California and Panama. Current operational MECs have exceeded their designed 30-year service life and can no longer meet this need for the Coast Guard. Therefore, the Coast Guard must replace the aging MECs because they are too old and costly to be operationally effective. Some of the oldest MECs are already more than 55 years old and do not have sufficient hull life remaining to justify any attempts to modernize them. Therefore, the purpose of the Proposed Action is the acquisition and operation of up to 25 OPCs to replace the capabilities of the current operational MECs. OPCs have identical missions and operational characteristics as the MECs they replace. OPC differences include increased length to accommodate a fixed hanger for assigned aircraft, larger flight deck, greater at-sea endurance, an increased number of cutter boats, and

modernized Command, Control, Computers, Navigation, and Combat systems. OPCs also feature enhanced environmental standards for clean air, noise, sewage, trash, and ballast.

Proposed Action and Alternative

Coast Guard has identified and analyzed three action alternatives and the No Action Alternative in the PEIS/POEIS for public review and comment.

Proposed Action (Alternative 1, Preferred Alternative): Under the Proposed Action, the Coast Guard would acquire and operate up to 25 OPCs with planned design lives of 30 years to fulfill mission requirements in the proposed action areas in the Atlantic Ocean, Gulf of Mexico, the Caribbean Sea, and Pacific Ocean, including the ice-free waters of Alaska, Hawaii, and Pacific Islands. Similar to the current fleet's operations, the Proposed Action would include vessel and aircraft operations as well as shipboard training exercises to meet the Coast Guard's mission responsibilities. OPCs would support the Coast Guard's missions that generally occur more than 50 nm (92 km) from shore and require long transit time to reach the farthest extent of the Coast Guard's AORs, forward deployment of forces with the U.S. Navy for National Defense, and an extended on-scene vessel presence.

An OPC's typical deployment schedule would be to perform law enforcement activities, which include interdicting any vessel suspected of illegal or unsafe activity in U.S. waters (e.g., fishing without appropriate permits, carrying excessive passengers, or transporting contraband). However, the OPC would be expected to perform other federally-mandated emergent (e.g., hurricane disaster response) or non-emergent missions, typically without sufficient time to return to port for additional provisions or reconfiguration. These missions include Ports, Waterways, and Coastal Security, Search and Rescue, Drug Interdiction, Migrant Interdiction, Living Marine Resource, Other Law Enforcement, and Defense Readiness. The OPC would also be required to enforce maritime environmental laws and regulations, escort vessels to protect national security,

and to ensure safe maritime navigation. Coast Guard mandated missions are covered under Title 14 U.S.C. and 6 U.S.C. 468.

OPCs would carry up to three small, rigid-hull inflatable Over the Horizon (OTH) boats, but only one to two OTH boats would be launched at any one time in support of OPC operations. Operations with OTH boats would enhance operational effectiveness by allowing for simultaneous boarding, inspecting, seizing, and neutralizing of surface targets of interest (i.e., civilians suspected of breaking the law or requiring assistance). The OTH boats would also perform in situations and areas where it is either physically impossible or dangerous for the OPC to navigate. OTH boats would support activities such as vessel boarding, passenger transfer, and rescue of persons in distress.

All OPCs would be flight deck-equipped with the ability to launch, recover, hangar, and maintain helicopters. The flight deck of the OPC would be capable of launching and recovering all variants of helicopters up to equivalent weight of a Sikorsky S-92. In general, helicopters supporting an OPC would either be from an embarked aviation detachment, or would fly from an established airstrip on shore either to the OPC or from the OPC to shore. Helicopter flights associated with the Proposed Action would occur in all Coast Guard AORs, and could be used for transport of personnel and equipment and for conducting training (e.g., landing qualifications), in addition to supporting all OPC missions. All aircraft would follow the Coast Guard's Air Operations Manual (COMDTINST M3710.1H, October 2018).

All OPCs would also have the ability to launch, recover, hangar, and maintain an Unmanned Aircraft System (UAS). Depending on available space, multiple UAS may be utilized. The OPC would have the capability to operate video-equipped UAS that would extend the visual capability of the OPC when conducting operations. The UAS would be deployed and recovered from the OPC. At this time, the specific type of UAS that would be deployed from the OPC is not known because the Coast Guard would acquire the most

current UAS technology available after the OPCs are operational. Coast Guard UAS Division sets policies and Standard Operating Procedures specific to UAS operations, including regulations that differ from those governing manned flight operations.

Every 18–24 months, the OPC crew would undergo 3–4 weeks of training and evaluation, including over 100 drills and exercises in different scenarios (e.g., flooding, combat, fires, refueling at sea, towing, active shooter) to demonstrate the crew’s abilities to safely and effectively run the ship. During this training evaluation, a significant administrative portion is dedicated to ensure the ship’s compliance with applicable laws, regulations, and policies. Some of the activities are integral to Coast Guard emergency response. Although emergency response is not a part of the Proposed Action, training is required. Therefore, training on an OPC for an emergency response is considered part of the Proposed Action. Training would entail practicing response to a simulated emergency while continuing the safe operation and navigation of the OPC.

Gunnery training may occur up to four times per year on each OPC vessel and would only occur in ranges authorized by the Coast Guard and when possible, in established Navy ranges, particularly when live ammunition is used. Areas with sensitive marine resources would not be used for gunnery training.

Vessel performance testing would occur up to annually and would typically occur near that vessel’s homeport similar to testing currently conducted for MECs.

Coast Guard OPC operations and training would occur after delivery of each OPC from the shipbuilder to the Coast Guard. For example, OPC–1 delivery to the Coast Guard is expected in 2023 and would undergo approximately one year of training to become “Ready for Operations.” OPC–1 would then become operational in 2024. The last OPC (i.e., OPC–25) is expected to be delivered in 2037 and would then become operational in 2038.

Alternative 2, Reduced Acquisition: The Coast Guard would explore the acquisition of fewer OPCs after the completion of OPC-1 through OPC-4 which are under contract. The Coast Guard would consider five, ten, or fifteen OPCs via a re-competition of the original OPC contract as replacements for a corresponding number of in-service MECs. The Coast Guard would then need to replace the remaining MECs on a one-for-one basis, using whatever replacement hulls the Coast Guard could obtain when deterioration or obsolescence requires decommissioning. The life cycle training and logistical costs of maintaining several unique hulls would exceed the corresponding costs of maintaining a class of 25 cutters that would be built specifically to conduct missions in the Coast Guard's AORs. Costs and challenges are similar to what is described under Alternative 3. Operations and training using OPCs acquired under Alternative 2 are the same as for Alternative 1.

Alternative 3, Purchase, Lease, and Inherit: The Coast Guard would explore various forms of cutter purchase or lease, or inherit vessels from the U.S. Navy, as the need arises. This would mean that as a MEC reaches or surpasses the end of its economic service life, that cutter would not necessarily be replaced with the same type of asset or by an asset with similar capabilities. One-for-one MEC replacement cost would increase more per replacement hull because it eliminates any workforce savings associated with ship capabilities designed specifically to conduct Coast Guard missions in areas that may exceed 50 nm (93 km) from shore. The purchase, lease, and inherit alternative include the lack of an existing domestic commercial vessel capable of meeting available options to Purchase and Build-to-Lease. This approach would not properly integrate Coast Guard systems, limiting ability of assets to communicate in real time and resulting in decreased efficiency throughout the system, as well as higher maintenance costs. Operations and training using OPCs acquired under Alternative 2 are the same as for Alternative 1.

No Action Alternative: The evaluation of a No Action Alternative is required by the regulations implementing NEPA. Under the No Action Alternative, the Coast Guard would acquire OPC–1 through OPC–4, then would fulfill its missions in the Atlantic and Pacific Oceans and Gulf of Mexico using existing assets, which are reaching the end of their service lives. The existing assets would continue to age, causing a decrease in efficiency of machinery as well as an increased risk of equipment failure or damage, and would not be considered reliable for immediate emergency response. In addition, it would become more difficult for an ageing fleet to remain in compliance with environmental laws and regulations and standards for safe operation. Further Service Life Extensions become more challenging as significant systems and parts are no longer available, which requires contracting for systems or parts to be made specifically for the vessel. Therefore, the No Action Alternative would not meet the Coast Guard’s statutory mission requirements in the Atlantic and Pacific Oceans and Gulf of Mexico to provide air, surface, and shore-side presence in those areas.

The Coast Guard also enforces the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA), and without reliable Coast Guard presence, enforcement of these laws would be significantly reduced. As such, the No Action Alternative does not meet the purpose and need.

Summary of Expected Impacts

While the Coast Guard must work toward environmental compliance during the design and acquisition of OPCs, each vessel is not expected to impact the environment or biological resources until it is operational. In addition, vessel construction in commercial shipyards is not expected to impact any physical or biological resources.

Although the total number of OPCs may be subject to change, Congressional Authorization is for no more than 25. Therefore, the PEIS/POEIS analyzes the potential

impact associated with the proposed acquisition and operation of up to 25 OPCs, as this would be the highest number projected to be operational in the Coast Guard's AORs.

Acoustic and physical stressors associated with the Proposed Action may potentially impact the physical and biological environment in the AORs. Potential acoustic stressors include: the fathometer and Doppler speed log noise (navigation system), vessel noise, aircraft noise, and gunnery noise. Potential physical stressors include: vessel movement, aircraft movement (helicopters, UAS), and marine expended materials (MEM).

Since the OPC AORs cover a broad geographic area, stressors associated with the Proposed Action are assessed to determine if they potentially impact air quality, ambient sound, biological resources (including critical habitat), and socioeconomic resources.

The PEIS/POEIS evaluates the likelihood that a resource would be exposed to or encounter a stressor and identify the potential impact associated with that exposure or encounter. The likelihood of an exposure or encounter is based on the stressor, location, and timing relative to the spatial and temporal distribution of each biological resource or critical habitat. No significant impacts to environmental resources were identified.

Anticipated Permits and Authorizations

The Proposed Action is programmatic in nature and each OPC would have a design service life of 30 years. As such, potential permits and authorizations are identified in the PEIS/POEIS. Certain approvals may be completed as part of the PEIS/POEIS, but specific permits and authorizations under the laws listed below will be determined through consultations with the appropriate regulatory agencies, and would not necessarily be issued until an OPC is operational in a specific geographic area. Implementation of all alternatives will ultimately require compliance with the following laws and regulations through issuance of permits and/or authorizations:

The Coastal Zone Management Act (CZMA; 16 U.S.C. 1451 *et seq.*) was enacted to protect the coastal environment from demands associated with residential, recreational, and commercial uses. The Coast Guard would determine the impact of the Proposed Action and provide a Coastal Consistency Determination or Negative Determination to the appropriate state agency for anticipated concurrence once the homeports are selected for the OPCs.

The Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq.*) provides for the conservation of endangered and threatened species and the ecosystems on which they depend. The Coast Guard anticipates engaging with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, pursuant to Section 7 of the ESA, which have jurisdiction over ESA-listed species and critical habitat (50 CFR 402.14(a)).

The Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) regulates “take” of marine mammals in U.S. waters. The term “take” as defined in Section 3 (16 U.S.C. 1362) of the MMPA, means “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” “Harassment” was further defined in the 1994 amendments to the MMPA as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (i.e., Level A Harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (i.e., Level B Harassment). The Coast Guard anticipates engaging with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service for potential Level B Harassment of marine mammals under their respective jurisdiction from proposed action activities.

The National Historic Preservation Act (NHPA; 16 U.S.C. 470, *et seq.*), Section 106, requires that each Federal agency identify and assess the effects its actions may have on historic resources, including potential effects on historic structures, archaeological

resources, and tribal resources. The Coast Guard would determine if any historic resources are present in the project area, evaluate the potential for the proposed action to adversely affect these resources, and consult with the appropriate state agency and any interested or affected Tribes to resolve any adverse effects by developing and evaluating alternatives or measures that could avoid, minimize, or mitigate impacts.

The Clean Air Act (42 U.S.C. 7401, et seq.) regulates emissions from both stationary (industrial) sources and mobile sources. The Coast Guard evaluated the potential for increased emissions during proposed action activities to determine if the emissions would be in conformity with the State Implementation Plan for attainment of National Ambient Air Quality Standards.

Schedule for the Decision-Making Process

Following the comment period announced in this Notice of Availability, and after consideration of all comments received, Coast Guard will prepare a Final PEIS/POEIS for the acquisition of 21 OPCs and operation of up to 25 OPCs. In meeting CEQ regulations requiring EISs to be completed within 2 years the Coast Guard anticipates the Final PEIS/POEIS would be available in 2022. Availability of the Final PEIS/POEIS would be published in the **FEDERAL REGISTER** and would be available for a 30-day waiting period. Because new information may become available after the completion of the Draft or Final PEIS/POEIS, supplemental NEPA documentation may be prepared in support of new information or changes in the Proposed Action considered under the PEIS/POEIS.

Public Scoping Process

The Coast Guard is seeking comments on the potential environmental impacts that may result from the Proposed Action or preliminary Alternatives. The Coast Guard is also seeking input on relevant information, studies, or analyses of any kind concerning impacts potentially affecting the quality of the human environment as a result of the

Proposed Action. NEPA requires Federal agencies to consider environmental impacts that may result from a Proposed Action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. The PEIS/POEIS includes, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives.

EO 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957), directs Federal agencies to be informed of and take account of environmental considerations when making decisions regarding major Federal actions outside of the U.S., its territories, and possessions. EO 12114 requires Federal agencies to assess the effects of their actions outside the U.S. that may significantly harm the physical and natural environment. A PEIS/POEIS would include, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives. The Coast Guard proposes to combine the PEIS and POEIS into one document, as permitted under NEPA and EO 12114, to reduce duplication.

The Coast Guard intends to follow the CEQ regulations implementing NEPA (40 CFR parts 1500 through 1599) by scoping through public comments. Scoping, which is integral to the process for implementing NEPA, provides a process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the Draft PEIS/POEIS is thorough and balanced; and (4) delays caused by an inadequate PEIS/POEIS are avoided.

Public scoping is a process for determining the scope of issues to be addressed in this PEIS/POEIS and for identifying the issues related to the Proposed Action that may have a significant effect on the environment. The scoping process began with publication of the

Notice of Intent to prepare the PEIS/POEIS, published November 18, 2020 (85 FR 73491). The Coast Guard did not receive any comments or input on alternatives, information, or analysis relating to the Proposed Action during the 45-day public scoping period that began November 18, 2020 and ended January 4, 2021. In this Notice of Availability, the Coast Guard is providing the public with the opportunity to comment on the Draft PEIS/POEIS. After Coast Guard considers those comments, the Final PEIS/POEIS will be prepared and its availability similarly announced to solicit public review and comment. Comments received during the Draft PEIS/POEIS review period will be available in the public docket and made available in the Final PEIS/POEIS.

Pursuant to the CEQ regulations, Coast Guard invites public participation in the NEPA process. This notice requests public comments, establishes a public comment period, and provides information on how to participate.

The 45-day public comment period begins [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ends [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments and related material submitted to the online docket via <https://www.regulations.gov/> must be received by the Coast Guard on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and mailed submission, must be postmarked on or before that same date.

We encourage you to submit specific, timely, substantive, and relevant comments through the Federal portal at https://www.regulations.gov, on the site provided when searching the above docket number or searching for “Offshore Patrol Cutter.” If comments cannot be submitted using https://www.regulations.gov, contact the OPC program manager at HQS-SMB-OPCEIS@uscg.mil. If you cannot submit comments electronically, written comments can be sent to: OPC Program Manager (CG-9322), U.S.

Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE, Stop 7800,
Washington, DC 20593.

In submissions, please include the docket number for this Notice of Availability and provide reasoning for comments. To be considered timely, comments must be received on or before [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] to be considered in the Draft PEIS/POEIS. Comments mailed to the contact above must be postmarked by [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. We will consider all substantive and relevant comments received during the comment period.

We accept anonymous comments. Comments posted to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

We review all comments received, but we will only post comments that address the topic of the notice. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Documents mentioned in this Notice of Availability as being available in the docket, and posted public comments, will be in the online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this Proposed Action.

Dated: September 15, 2021.

Andrew T. Pecora,
Captain, U.S. Coast Guard,
OPC Program Manager (CG-9322).

